

## Message Text

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ACTION EB-07

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FM AMEMBASSY SAN JOSE  
TO SECSTATE WASHDC 8990  
INFO AMEMBASSY GUATEMALA  
AMEMBASSY MANAGUA  
AMEMBASSY PANAMA  
AMEMBASSY SAN SALVADOR  
AMEMBASSY TEGUCIGALPA

UNCLAS SAN JOSE 0059

PASS: EB/CBA/BP - MR. HARVEY WINTER

E.O. 11652: N/A

TAGS: ECEM, CS

SUBJECT: NEW PATENT LAW PROPOSED

SUMMARY. THE GOVERNMENT HAS INTRODUCED A NEW PATENT LAW IN THE ASSEMBLY WHICH WOULD LOWER CONSIDERABLY, AND PERHAPS EVEN NEGATE, PROTECTION CURRENTLY AFFORDED TO PHARMACEUTICAL PRODUCTS AND DENY PROTECTION TO PHARMACEUTICAL PROCESSES. END SUMMARY.

1. THE MINISTRY OF ECONOMY, INDUSTRY AND COMMERCE (MEIC) HAS SENT TO THE NATIONAL ASSEMBLY A PROPOSED NEW PATENT LAW WHICH IS A MODIFICATION OF AN EARLIER BILL DRAFTED BY THE COSTA RICAN REGISTRAR OF PATENTS. THE MEIC PROPOSAL DIFFERS SIGNIFICANTLY FROM THE PATENT REGISTRAR'S DRAFT IN THAT IT WOULD LOWER THE TERM OF PROTECTION FOR PHARMACEUTICAL PRODUCTS FROM TWENTY YEARS TO FIVE YEARS. IN ADDITION IT WOULD DENY PATENT PROTECTION TO "PROCESSES, PRODUCTION SYSTEMS, OR THE SYNTHESIS OF SUBSTANCES HAVING A THERAPEUTIC EFFECT, WHEN SUCH PRODUCTS ARE NOT PRODUCED COMPLETELY WITHIN THE COUNTRY." IN ANOTHER ARTICLE THE PROPOSED LAW STIPULATES THAT ANY REGISTRATION OF A PATENT FOR A MEDICINE MUST HAVE THE PRIOR APPROVAL OF THE

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MINISTER OF HEALTH.

2. COMMENT. WHILE THE MEIC PROPOSAL VARIES IN OTHER WAYS FROM THE REGISTRAR'S DRAFT LAW, THE MAIN AREA OF DIFFERENCE APPEARS TO BE IN THE TREATMENT OF PHARMACEUTICAL PRODUCTS AND PROCESSES. THIS SUGGESTS THAT THE MAIN REASON FOR ALTERING THE REGISTRAR'S DRAFT WAS TO LOWER PATENT PROTECTION IN THIS AREA. IN THIS CONTEXT, THE RECENT PURCHASE BY THE COSTA RICAN SOCIAL SECURITY INSTITUTE OF FACILITIES VACATED BY TRAVENAL LABORATORIES, IS PROBABLY SIGNIFICANT. ALTHOUGH THE STATED USE TO WHICH THE LABORATORIES WILL BE PUT IS THE MANUFACTURE OF SERUMS, A LOCAL PFIZER EXECUTIVE HAS STATED THAT THE FACILITIES COULD BE USED TO PRODUCE OTHER PRODUCTS AND POINTED OUT THAT THEIR PURCHASE SETS A DANGEROUS PRECEDENT FROM THE VIEWPOINT OF THE LOCAL PHARMACEUTICAL INDUSTRY.

3. ACTION REQUESTED. IT WOULD BE APPRECIATED IF THE DEPARTMENT WOULD RELAY THE ABOVE INFORMATION TO MR. JOHN HAGEN, MANAGER OF THE PATENT LAW DEPARTMENT OF THE AMERICAN CYANAMID CORPORATION. HE CAN BE TELEPHONED COLLECT AT (203) 348-7331 EXT. 605. MR. HAGEN TELEPHONED THE EMBASSY ON JANUARY 6 REQUESTING INFORMATION ON THE PROPOSED NEW PATENT LAW. MR. HAGEN PLANS TO TRAVEL TO LATIN AMERICA THE WEEK OF JANUARY 13 AND WOULD LIKE TO HAVE THIS INFORMATION BEFORE HE LEAVES IF POSSIBLE.  
OGG

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